

REMARKS

Claim 1 is amended herein by incorporating the subject matter of claim 2 and claim 2 is canceled. No new matter is presented.

Entry of the Amendment after final rejection is deemed appropriate since the proposed amendment merely combines claims 1 and 2 relating to subject matter already recited in the claims. Entry of the Amendment is respectfully requested.

Upon entry of the Amendment, claims 1-3-23 will be all of the claims pending in the application. Claims 1 and 3-5 are rejected. Claims 2, 6 and 7 are objected to. Claims 8-23 are allowed.

Claims 1 and 3-5 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of copending App. Ser. No. 10/507,895.

Without conceding the merits of the rejection, claim 1 is amended herein by incorporating the subject matter of claim 2, which is not included in the rejection. That is, the claims of the co-pending '895 application do not teach or suggest the feature of the presently claimed invention wherein the photocatalyst comprising a capsule structure as claimed has and average particle size of 50 nm or less. Thus, the presently claimed invention is not an obvious variant of the claims of the '895 patent.

Accordingly, Applicants respectfully request withdrawal of the provisional obviousness-type double patenting rejection.

In view of the cancellation of the claim 2, the objection to claim 2 is rendered moot. Claims 6 and 7 ultimately depend from claim 1 as amended and are patentable for at least the same reasons as claim 1.

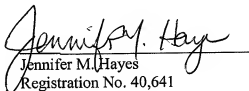
Accordingly, Applicants respectfully request withdrawal of the objection to claims 2, 6 and 7.

Claims 8-23 are allowed. Applicants thank the Examiner for the indication of allowed claims

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


Jennifer M. Hayes
Registration No. 40,641

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565

CUSTOMER NUMBER

Date: June 4, 2009